

State Intellectual Property Office of People's Republic of China

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Haidian District, Beijing, P. R. China, Postal Code:100083

Applicant(s)	Matsushita Electric Industrial Co., Ltd.	Issuing Date: November 11, 2005
Patent Agent(s)	Xiaofeng LIU	
Application No.	200410005590.3	
Title of Invention	RECORDING MEDIUM, RECORDING APPARATUS AND RECORDING METHOD	

THE FIRST OFFICE ACTION

1. ☒ The applicant filed a request for substantive examination on _____ (day/month/year). The examiner has carried out substantive examination on the above mentioned application for an invention patent in accordance with the provisions of Article 35(1) of the Chinese Patent Law.
- ☐ The Patent Office has decided to carry out substantive examination on the above mentioned application for an invention patent in accordance with the provisions of Article 35(2) of the Chinese Patent Law.
2. ☒ The applicant claimed:
 - the filing date 1998.9.14 in the Japan Patent Office as the priority date,
 - the filing date 1998.12.9 in the Japan Patent Office as the priority date,
 - the filing date _____ in the _____ Patent Office as the priority date,
 - the filing date _____ in the _____ Patent Office as the priority date,
 - the filing date _____ in the _____ Patent Office as the priority date.
- ☒ The applicant has provided a copy of the priority documents certified by the Patent Office where the prior application(s) was/were filed.
- ☐ The applicant has not provided a copy of the priority documents certified by the Patent Office where the prior application(s) was/were filed and the priority claim(s) is/are deemed not to have been made in accordance with the provisions of Article 30 of the Chinese Patent Law.
3. ☐ The applicant submitted amendment (s) to the application on _____ and on _____, wherein, the amendment(s) submitted on _____ and _____ on _____ are unacceptable, because said amendment(s) is/are not in conformity with
 - ☐ the provisions of Article 33 of the Chinese Patent Law;
 - ☐ the provisions of Rule 51 of the Implementing Regulations of the Chinese Patent Law.
 The detailed reasons for the amendments being unacceptable are described in the text of this Office Action.
4. ☐ The examination was carried out based on the application documents originally filed.
- ☒ The examination was carried out based on the application documents indicated below:

pages _____ of the specification, claim(s) _____ and pages _____ of the drawings filed on application date,
pages 1-57 of the specification, claim(s) 1-3 and pages 1-30 of the drawings filed on

February 18, 2004 (M/D/Y),

pages _____ of the specification, claim(s) _____ and pages _____ of the drawings filed on _____ (M/D/Y),
abstract filed on February 18, 2004, abstract drawing filed on February 18, 2004

5. ☐ This Notification is issued without a search having been conducted.

☒ This Notification is issued with a search having been conducted.

☒ The following reference documents have been cited in this office action (their serial numbers will be referred to in the ensuing examination procedure):

Serial No.	Reference document(Number or Title)	Publication Date (or Filing date of interference patent applications)
1	CN1130953A	11 day 09 month 1996 year
2		day month year
3		day month year
4		day month year

6. The result of the examination is as follows:

☐ Description:

- ☐ The subject matter of the application falls into the scope on which no patent rights shall be granted as provided by Article 5 of the Chinese Patent Law.
- ☐ The description is not in conformity with the provisions of Article 26(3) of the Chinese Patent Law.
- ☐ The description is not in conformity with the provisions of Rule 18 of the Implementing Regulations of the Chinese Patent Law.

☒ Claims:

- ☐ Claim _____ falls into the scope, on which no granted patent rights shall be granted, as provided by Article 25 of the Chinese Patent Law.
- ☐ Claim _____ is not in conformity with the definition of invention as prescribed by Rule 2(1) of the Implementing Regulations of the Chinese Patent Law.
- ☐ Claim _____ does not possess novelty as provided by Article 22(2) of the Chinese Patent Law.
- ☒ Claim 2, 3 does not possess inventiveness as provided by Article 22(3) of the Chinese Patent Law.
- ☐ Claim _____ does not possess practical applicability as provided by Article 22(4) of the Chinese Patent Law.
- ☐ Claim _____ is not in conformity with the provisions of Article 26(4) of the Chinese Patent Law.
- ☐ Claim _____ is not in conformity with the provisions of Article 31(1) of the Chinese Patent Law.
- ☒ Claim 1 is not in conformity with the provisions of Rule 20 of the Implementing Regulations of the Chinese Patent Law.
- ☐ Claim _____ is not in conformity with the provisions of Article 9 of the Chinese Patent Law.

- ☐ Claim _____ is not in conformity with the provisions of Rule 12(1) of the Implementing Regulations of the Chinese Patent Law.

The detailed reasoning for the above opinion is described in the text of this office action.

7. On the basis of the above opinion, the examiner holds that:
- ☐ The applicant should make amendments as required in the text of this office action.
 - ☐ The applicant should provide reasons for that the above mentioned patent application can be granted patent right, and make amendments to the specification as described in the text of this office action; otherwise the patent right shall not be granted.
 - ☒ The patent application does not possess any substantive contents for which patent right may be granted, if the applicant fails to provide reasons or the reasons provided are not sufficient, this application will be rejected.
8. The applicant's attention is drawn to the following matters:
- (1) In accordance with the provisions of Article 37 of the Chinese Patent Law, the applicant shall submit a response within four months from the date of receiving this office action. If the applicant fails to meet the time limit without any justified reason, the application shall be deemed to have been withdrawn.
 - (2) The amendment made by the applicant shall be in conformity with the provisions of Article 33 of the Chinese Patent Law. The amendment shall be submitted in duplicate copies and in the format required by the relevant provisions of the Examination Guideline.
 - (3) The applicant's response and/or amended documents shall be mailed or submitted to the Receiving Department of the Chinese Patent Office. Documents which are not mailed or submitted to the Receiving Department do not possess legal effect.
 - (4) The applicant and/or his(its) agent shall not come to the Chinese Patent Office for interview with the examiner without an appointment.
9. The text of this office action consists of a total of 2 sheets, and is accompanied by the following annexes:
- ☒ A copy of the cited reference documents consisting of 1 set and 49 sheets.
 - ☐

The _____ Examination Department

The Seal of the Examiner: Zehua DONG

THE DETAILS OF THE FIRST OFFICE ACTION

Application number:2004100055903

The claim 1 is for protection of a kind of product recording medium, but the technical feature which makes the devotion to the prior art is the tracks and the information, but they do not make any effect to the physical structure of the recording medium, which leads to the inconsistent between the subject matter to be protected and the said technical features, which further makes the protection scope unclear and is not in conformity with the Rule 20(1) of the Implementing Regulations of the Chinese Patent Law cited below;

Rule 20(1).The claims shall define clearly and concisely the matter for which protection is sought in terms of the technical features of the invention or utility model.

The claim 2 is for protection of a recording and reproducing apparatus, the reference 1(CN1130953A) disclosed a kind of data recording device, in which(referencing the line 8 from the bottom in page 2 to line 19 in page 25 of the specification) the following technical features were disclosed: the data recording device having laser irradiating device, laser driving device, recording medium moving device, controlling device(the lines 5-11 in page 7 of the specification), light receiving device, reproducing device(lines 13-18 in page 8)(corresponding to the reading system of the claim 2), non-symmetry detecting device(corresponding to the determining device of the claim 2), which the laser driving power supplied to the laser driving device based on the detecting result, the recording medium does not make any effect to the structure of the recording and reproducing device therefor it is not to be considered, the difference between the claim 1 and the reference 1 is that the contents of the information for controlling the laser driving power, but the reference 1 had given the technical revelation of predetermining and recording the information of the laser driving for realizing the best recording, therefor it is obvious for the person skilled in this art to adopt the above to the mark edge recording and to obtain the technical scheme of the claim 2, therefor the claim 2 does not possess the inventiveness according to the Article 22(3) of the Chinese Patent Law cited below:

Article 22(3). Inventiveness means that, as compared with the technology existing before the date of filing, the invention has prominent substantive features and represents a notable progress and that the utility model has substantive features and represents progress.



The claim 3 is for protection of the method corresponding to the device in the claim 2, therefor the claim 3 does not possess the inventiveness in the similar reasons with the claim 2.

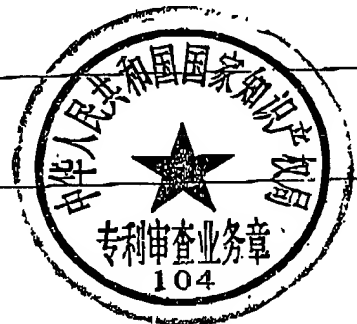
Concerning the above, this application shall not be granted until now. The applicant should submit the amended claims according to the above opinions in the notification within the designated period. Please be noted that the amendment shall be in conformity with Article 33 of the Chinese Patent Law being cited below and shall not go beyond the initial scope of the claims and specification, otherwise this application shall be rejected.

An applicant may amend his or its application for a patent, but the amendment may not go beyond the scope of the disclosure contained in the initial specification and claims, and the amendment to the application for a patent for design may not go beyond the scope of the disclosure as shown in the initial drawings or photographs.



中华人民共和国国家知识产权局

邮政编码: 100083 北京市海淀区王庄路1号清华同方科技大厦B座15层 中科专利商标代理有限责任公司 刘晓峰	发文日期 
申请号: 2004100055903 	
申请人: 松下电器产业株式会社 发明创造名称: 记录介质和记录装置及记录方法	



第一次审查意见通知书

- ☒ 应申请人提出的实审请求, 根据专利法第35条第1款的规定, 国家知识产权局对上述发明专利申请进行实质审查。
☐ 根据专利法第35条第2款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。
- ☒ 申请人要求以在:

JP	专利局的申请日	1998年09月14日为优先权日,
JP	专利局的申请日	1998年12月09日为优先权日,
	专利局的申请日	年 月 日为优先权日,
	专利局的申请日	年 月 日为优先权日,
	专利局的申请日	年 月 日为优先权日。

☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。
☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第30条的规定视为未提出优先权要求。
- ☐ 经审查, 申请人于:

年 月 日提交的	不符合实施细则第51条的规定;
年 月 日提交的	不符合专利法第33条的规定;
年 月 日提交的	
- 审查针对的申请文件:

<input type="checkbox"/> 原始申请文件。	<input checked="" type="checkbox"/> 审查是针对下述申请文件的
申请日提交的原始申请文件的权利要求第	项、说明书第 页、附图第 页:
20004 年 2 月 18 日提交的权利要求第 1-3	项、说明书第 1-57 页、附图第 1-30 页;
年 月 日提交的权利要求第	项、说明书第 页、附图第 页;
年 月 日提交的权利要求第	项、说明书第 页、附图第 页;
20004 年 2 月 18 日提交的说明书摘要和摘要附图。	
- ☐ 本通知书是在未进行检索的情况下作出的。
☒ 本通知书是在进行了检索的情况下作出的。
☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期(或抵触申请的申请日)
1	CN1130953A	1996-9-11
- 审查的结论性意见:

<input type="checkbox"/> 关于说明书:
<input type="checkbox"/> 申请的内容属于专利法第5条规定的不授予专利权的范围。
<input type="checkbox"/> 说明书不符合专利法第26条第3款的规定。



申请号 2004100055903

- ☐ 说明书不符合专利法第 33 条的规定。
☐ 说明书的撰写不符合实施细则第 18 条的规定。
☐

☒ 关于权利要求书:

- ☐ 权利要求 不具备专利法第 22 条第 2 款规定的新颖性。
☒ 权利要求 2, 3 不具备专利法第 22 条第 3 款规定的创造性。
☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。
☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。
☐ 权利要求 不符合专利法第 26 条第 4 款的规定。
☐ 权利要求 不符合专利法第 31 条第 1 款的规定。
☐ 权利要求 不符合专利法第 33 条的规定。
☐ 权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。
☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
☒ 权利要求 1 不符合专利法实施细则第 20 条的规定。
☐ 权利要求 不符合专利法实施细则第 21 条的规定。
☐ 权利要求 不符合专利法实施细则第 22 条的规定。
☐ 权利要求 不符合专利法实施细则第 23 条的规定。
☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
☐ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
☒ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。
☐

8. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。
9. 本通知书正文部分共有 2 页, 并附有下列附件:
☒ 引用的对比文件的复印件共 1 份 49 页。 ☐

审查员: 李静华(9302)
 2005 年 10 月 26 日

审查部门 审查协作中心

21301
 2002.8



回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收
 (注: 凡寄给审查员个人的信函不具有法律效力)

中华人民共和国国家知识产权局

第一次审查意见通知书正文

申请号：2004100055903

权利要求1要求保护一种产品记录介质，但是所述的对现有技术作出贡献的技术特征为其上的磁道及信息，然而磁道及信息对记录介质的物理结构没有任何影响，导致要求保护的主题和所述的技术特征之间逻辑上不一致，进而导致要求保护的范围不清楚，不符合专利法实施细则第二十条第一款的规定。

权利要求2要求保护一种记录和再现装置，对比文件1（CN1130953A）公开了一种数据记录装置，其中（具体参见说明书第2页第倒数第8行至第25页第19行）披露了以下内容：该数据记录装置具有激光照射装置、激光驱动装置、记录媒体移动装置、控制装置（说明书第7页第5—11页）、光接收装置、再现装置（说明书第8页第13—18行）（对应权利要求1中的读取系统）、不对称值检测量装置（对应权利要求1中的确定装置）根据检测结果控制送给激光驱动装置的激光驱动功率。所述记录介质对记录和再现装置的结构没有必然直接的技术上的关联，不予考虑；权利要求1和对比文件1的区别在于控制激光驱动功率的信息内容的不同，但是对比文件1给出了为了实现最优记录预先确定并记录有关数据记录的激光驱动方面的信息的技术启示，因此当本领域普通技术人员面临本发明要解决实现最优的记录的技术问题时，将对比文件1给出的技术启示应用于标记边缘记录从而得到权利要求1所述的技术方案是显而易见的，因此权利要求1不具有专利法第二十二条第三款规定的创造性。

权利要求3要求保护和权利要求2要求保护的装置相对应的方法，因此基于评述权利要求2的理由，权利要求3也不具有专利法第二十二条第三款规定的创造性。

针对上述审查意见，申请人应该在指定的期限内进行意见陈述或提交新修改的申请文件，注意修改权利要求书时，应该进行前后一致性修改，根据专利法实施细则第十八条对说明书作适应性修改，将修改后的独立权利要求的技术方案记载到说明书的技术方案部分，说明书和权利要求书应该进行一致性修改。由于上述审查意见中指出的问题属于专利法实施细则第五十三条规定的驳回情形，因此如果申请人坚持现申请文本不作修改而又不能在意见陈述书中充分论述其符合专利法及其实施细则相关规定的理由，依据专利法第三十八条本申请将被驳回；申请人应该按照通知书的要求的进行修改，主动修改将会导致文本不予接受；任何修改都必须符合专利法第三十三条以

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及实施细则第五十一条之规定，根据专利法实施细则第五十二条的规定，请申请人附上修改前后的对照页。

审查员：董泽华

代码：9302